

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
JEFFREY STEPHENS,  
  
Defendant.

CASE NO. CR21-0129-JCC-1  
  
ORDER

This matter comes before the Court on Defendant's Motion for Review and Revocation of his Detention Order (Dkt. No. 68). Having reviewed the pleadings and the relevant record, the Court finds oral argument unnecessary and hereby DENIES Defendant's motion.

**I. BACKGROUND**

Defendant was originally indicted on August 11, 2021 for Conspiracy to Distribute Controlled Substances (Count 1) and Laundering of Monetary Instruments (Counts 2–7). (Dkt. Nos. 1, 31.) At the arraignment, the Government moved for pretrial detention, citing Defendant's risk of nonappearance and the danger he presented to the community. (Dkt. No. 10 at 2.) On September 13, 2021, the Honorable Mary A. Theiler, United States Magistrate Judge, granted the Government's detention motion, after a contested hearing. (Dkt. Nos. 20, 21.) Judge Theiler concluded that Defendant failed to overcome the rebuttable presumption that no combination of conditions would reasonably assure community safety, given probable cause that Defendant

1 committed a drug offense with a maximum sentence of ten years or more. (Dkt. No. 21 at 1–2.)  
2 Relevant factors in Judge Theiler’s decision included the nature of the offense, the allegation that  
3 Defendant laundered more than \$1,000,000, Defendant’s overseas connections, a limited history  
4 of legitimate employment, and his alleged possession of unregistered weapons and firearms. (*Id.*)

5 On August 2, 2022, Defendant filed a motion for pretrial release, or in the alternative, to  
6 reopen his detention hearing. (Dkt. No. 57.) He argued that new evidence justified his release.  
7 (*Id.*) The Government contested the motion, which this Court referred to the Honorable Brian A.  
8 Tsuchida, United States Magistrate Judge. (Dkt. Nos. 62, 63.) On September 6, 2022, Judge  
9 Tsuchida denied both Defendant’s request for pretrial release and the request to reopen the  
10 detention hearing on the grounds that the request was “largely based on information that  
11 [Defendant] knew about at the time of the detention hearing, and arguments that he has already  
12 raised.” (Dkt. No. 67 at 5.) Defendant filed the present motion for review and revocation of  
13 Judge Tsuchida’s and Judge Theiler’s orders. (*See generally* Dkt. No. 68.)

## 14 **II. DISCUSSION**

### 15 **A. Standard of Review**

16 18 U.S.C. § 3145(b) provides that “[i]f a person is ordered detained by a magistrate  
17 judge . . . the person may file, with the court having original jurisdiction over the offense, a  
18 motion for revocation or amendment of the order.” *United States v. Koenig*, 912 F.2d 1190,  
19 1192–93 (9th Cir. 1990). The Court reviews a magistrate judge’s order detaining a defendant  
20 before trial *de novo*. *Id.* at 1193. Thus, the Court makes its own factual findings and reaches an  
21 independent conclusion about whether the defendant should be detained, without deference to  
22 the magistrate judge’s decision. *Id.*

### 23 **B. Detention Order**

24 Where, as here, there is probable cause to believe that the Defendant has committed an  
25 offense for which a maximum term of imprisonment of ten years or more is prescribed, there is a  
26 rebuttable presumption that “no condition or combination of conditions will reasonably assure

1 the appearance of the person as required and the safety of the community.” *United States v. Hir*,  
2 517 F.3d 1081, 1086 (9th Cir. 2008) (quoting 18 U.S.C. § 3142(e)). Although the presumption  
3 shifts the burden of production to Defendant, the burden of persuasion remains with the  
4 Government. *See United States v. Rodriguez*, 950 F.2d 85, 88 (2d Cir. 1991). Moreover, a  
5 finding that Defendant is a danger to any other person or the community must ordinarily be  
6 supported by “clear and convincing evidence.” 18 U.S.C. § 3142(f)(2)(B). Whereas the  
7 Government may demonstrate a risk of flight by a preponderance of the evidence. *See United*  
8 *States v. Diaz-Hernandez*, 943 F.3d 1196, 1198 (9th Cir. 2019).

9 Defendant presents limited evidence regarding his risk of nonappearance. Namely, an  
10 executed surety agreement. (Dkt. No. 68 at 10.) And a job offer. (Dkt. No. 57-3 at 2.) These do  
11 not fully address Defendant’s risk of nonappearance, as they do not represent an individual cost  
12 and deterrent to Defendant’s non-appearance. Moreover, Defendant is a technically savvy actor  
13 with connections to foreign drug suppliers, and he has been recorded stating his desire to flee the  
14 country. (Dkt. 57-7 at 4.) Defendant does not provide evidence to rebut those concerns.

15 Perhaps most importantly, Defendant does not address at all the danger that Judge Theiler  
16 found he poses to the community. (*See generally* Dkt. No. 21.) This failure is conspicuous, given  
17 (a) the rebuttable presumption presented by Count 1 of the Indictment regarding this risk; (b) the  
18 multiple firearms and thousands of rounds of ammunition recovered from Defendant’s car and  
19 house; and (c) the violent statements Defendant was recorded saying to the undercover agent.  
20 (Dkt. Nos. 1 at 3–4, 69 at 11–12.) Although the Government concedes that Defendant assisted  
21 them in locating some missing firearms, (Dkt. No. 69 at 7–8), the fact that one ceases a violent  
22 course when faced with law enforcement does little to demonstrate a lack of danger to the  
23 community were law enforcement absent.

24 For the reasons described above, the Court FINDS that no condition or combination of  
25 conditions will reasonably assure Defendant’s appearance and the safety of the community.  
26

1           **C.       Reopen Detention Hearing**

2           A detention hearing may be reopened if information that was not known to the defendant  
3 at the time of the hearing is now known and has a material bearing on whether the Court can  
4 craft conditions for release to reasonably assure the defendant's appearance and the safety of any  
5 other person and the community. 18 U.S.C. § 3142(f).

6           The allegedly new facts Defendant relies upon are as follows: the Government located  
7 missing firearms that were referenced in the initial detention hearing. (Dkt. No. 68 at 10.) The  
8 Government also produced an investigation report related to ammunition found in Defendant's  
9 home. (*Id.*) Further, the Government produced transcripts of Defendant's conversations with an  
10 undercover law enforcement agent. (*Id.*) In addition, Defendant provided an executed surety  
11 agreement. (*Id.* at 10–11.) And finally, Defendant provides evidence that he has an outstanding  
12 job offer upon release. (Dkt. No. 57-3 at 2.)

13           The Government asserts that this information does not warrant a new hearing because it  
14 was generally known to Defendant at the time of his detention hearing and/or is not material to  
15 his release conditions. (*See generally* Dkt. No. 69.) This is consistent with Judge Tsuchida's  
16 findings, and the Court agrees with this conclusion. The location of the guns and ammunition  
17 were known to Defendant at the time of the initial detention hearing, so the fact that they were  
18 later seized cannot and should not justify reopening the hearing. Regarding Defendant's executed  
19 surety agreement, at the initial detention hearing, Defense counsel argued that Defendant's  
20 "mother has a home in northeast Seattle" and mentioned that she'd be willing to execute a surety  
21 agreement on the house. (Dkt. No. 57-1 at 15.) Judge Theiler explicitly replied that even with the  
22 surety agreement, she did not think that would prevent Defendant from fleeing. (*Id.*) The job  
23 offer is the only remotely new piece of evidence, but it does not justify reopening a detention  
24 hearing on its own given that Defendant's employment history and ability to find meaningful  
25 employment was considered at the initial hearing. (*Id.*)

26           In short, Defendant attempts to rehash old arguments without providing new material

1 facts for consideration in establishing conditions of release. *See* 18 U.S.C. § 3142(g). Therefore,  
2 the Court FINDS there is no basis to reopen the detention hearing.

3 **III. CONCLUSION**

4 For the foregoing reasons, the Court DENIES Defendant's motion. (Dkt. No. 68.)

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6 DATED this 5th day of October 2022.

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10 John C. Coughenour  
11 UNITED STATES DISTRICT JUDGE  
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